IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3212 OF 2005

Lingappa Tamanna Koli. ...Petitioner.
Vs.
Bank of India, Zonal Office, Solapur. ...Respondent.
....
Mr. R. K. Mendadkar for the Petitioner.
Mr. R. S. Pai for the Respondent.
.....

CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

June 21, 2005.

P.C.:

The Petitioner was initially engaged in Military service in September 1975 and was discharged in July 1991. The Petitioner moved the Tahsildar and Executive Magistrate, North Solapur, for the grant of a caste certificate testifying that he belongs to the Mahadeo Koli Community which is listed as a Scheduled Tribe. The Bank of India had sought a list of five candidates belonging to the Scheduled Tribe category from the Zilla Sainik Board at Solapur in 1993. Two names were recommended including the name of the Petitioner. The Bank issued a letter to the Petitioner

calling him for an interview and he furnished various documents including his caste certificate. The Petitioner was appointed in the Bank as a driver in a post reserved for the Scheduled Tribes. The appointment was subject to the verification of the caste certificate. The caste certificate was sent to the Committee for Scrutiny and Verification of Tribe Claims, Pune. The Committee by an order dated 7th March 2002 invalidated the claim of the Petitioner to belong to the Mahadeo Koli Tribe. The Petitioner filed a Writ Petition in this Court to challenge the decision of the Scrutiny Committee but that petition (Writ Petition 4232 of 2002) was dismissed by a Judgment and Order of the Division Bench dated 23rd June 2004. The Court held that there was no error of law or in the appreciation of evidence by the Committee. The Court noted that as a consequence of the dismissal of the Petition, the Bank may take steps to terminate the services of the Petitioner. The Court directed that if the Bank decided to do so, it shall take into consideration the past service of the Petitioner in the Military and take a compassionate view of the entire situation. With these observations, the petition was dismissed.

2. A disciplinary enquiry was convened by the Bank in which the Petitioner was served with a chargesheet. The Petitioner participated in the enquiry. In his report dated 7th October 2004, the Enquiry Officer came to the conclusion that the name of the Petitioner was on the waiting list of the Zilla Sainik Board, Solapur in the Scheduled Tribe category; that the name of the Petitioner was recommended to the Bank by the Board; that the Petitioner had submitted his caste certificate and the appointment order specifically mentioned that the appointment was subject to verification of the caste certificate. The charge levelled against the Petitioner was of having procured employment on the basis of a wrongly secured certificate that he belonged to a Scheduled Tribe. The misconduct was held to be proved. The Petitioner was discharged from service by an order dated 31st March 2005. The disciplinary authority has, however, directed that the Petitioner would be eligible to receive superannuation benefits.

3. There is no infirmity in the action which has been adopted the by Bank and in the termination of the services of the Petitioner. In **R. Vishwanatha Pillai v. State of Kerala,** (2004) 2 SCC 105, a Bench of three Learned Judges of the Supreme Court held thus:

> "The appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eye of the law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India. Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of a false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Castes. In view of the finding recorded by the Scrutiny Committee and upheld up to this Court, he has disqualified himself to hold the post. The appointment was void from its inception." (emphasis supplied).

The Supreme Court further held:

> "A person who entered the service by producing a false caste certificate and obtained appointment for the post meant for a Scheduled Caste, thus depriving a genuine Scheduled Caste candidate of appointment to that post, does not deserve any sympathy or indulgence of this Court. A person who seeks equity must come with clean hands. He, who comes to the court with false claims, cannot plead equity nor would the court be justified to exercise equity jurisdiction in his favour. A person who seeks equity must act in a fair and equitable manner. Equity jurisdiction cannot be exercised in the case of a person who got the appointment on the basis of a false caste certificate by playing a fraud. No sympathy and equitable consideration can come to his rescue. We are of the view that equity or compassion cannot be allowed to bend the arms of law in a case where an individual acquired a status by practising fraud."

The position in law has thus been laid down by the Supreme Court.

In view thereof, there is absolutely no merit in the Petition.

4. The petition is accordingly dismissed.

.....